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Date: July 26, 2005
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From: N. Paul Friederichs
Our File No.: S855-004-PAT

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JUL 26 2005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	:	Cederberg, Carl et al.	
Serial No.	:	09/382,709	
Filed	:	08/23/99	Group Art Unit: 3635
For	:	EXTERIOR DOOR JAMB	Examiner: Nguyen, C.
Docket No.	:	S 855-004-PAT	

Commissioner of Patents and Trademarks
Washington, D. C. 20231

REQUEST FOR TELEPHONE INTERVIEW

The facts and exhibits are in the record.

Applicant desires to discuss the reasons set forth in the record for denial of the revival under 37 CFR 1.137(a) as being unavoidable.

The Notice of Allowance was allegedly sent on May 6, 2002.

A corrected Notice of Allowance was sent on August 20, 2003.

The petition filed August 29, 2002 states that the Notice of Allowance was not received and the potential reasons therefore. Applicant would not have petitioned for revival on August 29, 2002 if the Corrected Notice of Allowance mailed on August 20, 2002 was received.

Applicant first received the Notice of Allowance (corrected or otherwise) as an attachment to the decision mailed on July 18, 2005.

The decision mailed July 18, 2005 states that the revival for unavoidable delay is denied, since Applicant did not respond to the Notice of Allowance.

Applicant cannot respond to a Notice of Allowance that Applicant did not receive. Moreover, having attempted to do so by guessing what was needed would be tantamount to malpractice. The Notice of Allowance includes reasons for allowance, which was not discernable without a copy of the Notice of Allowance. Failure to review and potentially comment upon the reasons for allowance can create adverse admissions against the applicant according to patent office rules. Such admissions may be false and damaging to the client.

Denial of a petition to revive for unavoidable delay on the basis that counsel would not risk the commission of malpractice is a bad decision.

Counsel understands that the delays and misplacement of documents through the patent office on the petition has made the file quite confusing and applicant appreciates the Examiner's exceptional effort to restore and document the course of the record. The record has been made about as clear and accurate as can be done without great expense of time and effort and risk of non-rectifiable confusion. Applicant understands that the decision may be a proposed solution to fix the problem without further ado and minimization of harm to the client, especially in view of the courtesy set forth in the section regarding 37 CFR 1.137(b). This is perhaps best discussed and recorded accordingly as an agreement.